

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL.
BANK OF AMERICA N.A.
D/B/A US TRUST, CAROL G. JONES,
LAURA JONES REICHMAN,
WENDY JONES MAGID, CINDY G.
BENNETT, AND DAVID R. JONES**

RELATORS,

**v.
THE HONORABLE JAMES F.
KANATZAR, JUDGE OF THE
CIRCUIT COURT OF JACKSON COUNTY**

RESPONDENT.

DOCKET NUMBER WD76371 Consolidated with WD76374
DATE: October 29, 2013

Appeal From:
Jackson County Circuit Court
The Honorable James F. Kanatzar, Judge

Appellate Judges:

Writ Division: Gary D. Witt, Presiding Judge, James E. Welsh, Chief Judge, and Karen King Mitchell, Judge

Attorneys:

Richard B. Walsh, Jr. and Derick C. Albers, St. Louis, MO, for relators Jones, Reichman, Magid, Bennett and Jones.

Jeffrey S. Russell and Kimberly A. Mohr, St. Louis, MO for relator Bank of America

Michael W. Blanton, Evergreen, CO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
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**STATE OF MISSOURI EX REL.
BANK OF AMERICA N.A.
D/B/A US TRUST, CAROL G. JONES,
LAURA JONES REICHMAN,
WENDY JONES MAGID, CINDY G.
BENNETT, AND DAVID R. JONES,**

RELATORS,

v.

**THE HONORABLE JAMES F.
KANATZAR, JUDGE OF THE CIRCUIT
COURT OF JACKSON COUNTY,**

RESPONDENT.

No. WD76274

Jackson County

Before Writ Division: Gary D. Witt, Presiding Judge, James E. Welsh, Chief Judge, and Karen King Mitchell, Judge

This action constitutes an original proceeding in prohibition following issuance of preliminary writ of prohibition. In a declaratory action by Richard H. Goldstein ("Goldstein") in the Circuit Court of Jackson County regarding the administration of two related trusts, Relators are Bank of America, N.A., D/B/A U.S. Trust ("Bank") and a set of individual defendants ("Individual Defendants"). Bank filed a writ of prohibition and/or mandamus asking this court to require the Honorable James F. Kanatzar to take no further action in the case except to transfer venue.

PRELIMINARY WRIT OF PROHIBITION MADE PERMANENT.

Writ Division holds:

(1) Section 456.2-204.1(2) of the Missouri Uniform Trust Code ("MUTC") states that for a trust not then registered in Missouri, venue will lie in the probate division of the circuit court where the trust could properly be registered.

(2) A party who faces a challenge based on venue bears the burden of making allegations that bring his or her claims squarely within the applicable statutory venue provision.

(3) Section 456.2-204 is a more specific venue statute that supersedes the general venue provision in section 508.010.

(4) Where Relators established that venue was appropriate in the probate division of the Circuit Court of the City of St. Louis pursuant to the MUTC and where Goldstein did not meet his burden of establishing that venue is alternately appropriate in Circuit Court of Jackson County, venue was appropriate probate division of the Circuit Court of the City of St. Louis.

Opinion by: Gary D. Witt, Judge

October 29, 2013

This summary is UNOFFICIAL and should not be quoted or cited.
